

## REMARKS

### RE: PROPOSED AMENDMENTS TO DRAWINGS

In response to the Examiner's objection to the drawings, Applicant submits a proposed change to Figure 1 (marked in red) on a separate sheet pursuant to 37 CFR 1.85 which change is a reference numeral "2" with a lead line indicating the appropriate feature of the invention. This amendment is not new matter because Figure 2 as originally filed in the application has a reference numeral "2" with an associated lead line indicating the same feature of the invention.

### RE: PROPOSED AMENDMENTS TO CLAIMS

Claim 1 has been amended so the signaling apparatus passively senses light. This avoids the various citations by the Examiner which sense signals sent by other devices, generally within the infrared spectrum, since the Zehavi invention senses ambient light in the room rather than signals.

Claim 2 has been amended to provide antecedent basis for "the amplitude" thus obviating the Examiner's objection. This is not new matter because "the amplitude" appeared in the original claim and also the description of Figure 1 and Figure 2 shows the invention as disclosed has a means to control speaker volume, which is a synonym for amplitude. This amendment is not substantive in nature and is not made to avoid any prior art. It is merely made to increase clarity and specificity of the claim by providing antecedent basis for a term. Claim 2 also contains the implicit amendment caused by the amendment to claim 1.

Claim 3 contains no amendments other than the implicit amendment caused by the amendment to claim 1.

Claim 4 contains no amendments other than the implicit amendment caused by the amendment to claim 1.

Claim 5 contains no amendments other than the implicit amendment caused by the amendment to claim 1.

Claim 6 contains no amendments other than the implicit amendment caused by the amendment to claim 1.

Claim 7 contains no amendments other than the implicit amendment caused by the amendment to claim 1.

Claim 8 has been amended to add a switch which arms or disarms the signaling means to actuate when a specific time condition arises. In other words, it turns the alarm on or off. This is not new matter because the switch is disclosed in the specification as originally filed (See e. g. Page 3, lines 20-21).

Claim 9 has been amended to provide antecedent basis for "the

amplitude" thus obviating the Examiner's objection. This is not new matter because "the amplitude" appeared in the original claim and also the description of Figure 1 and Figure 2 shows the invention as disclosed has a means to control speaker volume, which is a synonym for amplitude. This amendment is not substantive in nature and is not made to avoid any prior art. It is merely made to increase clarity and specificity of the claim by providing antecedent basis for a term. Claim 9 also contains the implicit amendment caused by the amendment to claim 8.

Claim 10 contains no amendments other than the implicit amendment caused by the amendment to claim 8.

Claim 11 contains no amendments other than the implicit amendment caused by the amendment to claim 8.

Claim 12 has been amended to claim actuation of the signaling means in response data showing to whether the alarm switch is on or off. This is not new matter because the specification as filed discloses this feature beginning at the last word of page 4 and continuing to line 4 of page 5 (describing how the programming would tell the controller how to signal depending on switching condition of the alarm switch among other things). Claim 12 also contains the implicit amendment caused by the amendment to claim 8.

Claim 13 has been amended to be dependent on claim 12 rather than claim 8, and also to contain the limitation that the controller can cause a signal when there is a change in lighting that coincides with either the alarm being off or on, whichever has been specified. This is also not new matter because it is described by the passage beginning at the last word of page 4 until line 4 of page 5. Claim 13 also contains the implicit amendment caused by the amendment to claim 8.

Claim 14 has been amended to remove the limitation "through telecommunication lines" which is not new matter since the parent claim as originally filed did not contain such a limitation and claim 13 as originally filed could send a signal which is wireless. Claim 14 also contains the implicit amendment caused by the amendment to claim 8.

Claim 15 has been amended to remove the limitation that the specified electronic device need be carried by the person being signaled. This is not new matter because claim 13 as originally filed had the wireless signal ability, claim 12 as originally filed had the ability to actuate the signal in response to specified time conditions, and the other limitations are either expressly or implicitly supplied by claim 8 from which they depend (in light of the specification). Moreover, in the background of the invention the original specification details that this invention is in the field of photosensitive devices which control other devices and discusses known uses of such devices which operate fixtures such as sprinklers or garage

lights.

Claim 16 has been amended to remove a typographical error discovered by Applicant, specifically that claim 16 depends from claim 15 rather than claim 14. This is clearly a typographical error since claim 16 is separated from claim 14 by the independent claim 15 which is not a permissible pattern of claim numbering. The inadvertent nature of the misuse of the number is further shown by the fact that Examiner has proceeded as though claims 16 through 20 depend from claim 15, apparently also relying on the fact that the convention is that the dependent claims are never separated from their parent by another independent claim. This amendment is not made to avoid any prior art and is not new matter since it adds no features that didn't exist earlier. Claim 16 also contains the implicit amendment caused by the amendment to claim 15.

Claim 17 is amended to depend from claim 15 rather than claim 14, thus correcting the typographical error discussed above regarding claim 16. Claim 17 also contains the implicit amendment caused by the amendment to claim 15. This is not new matter since it adds no features that didn't exist earlier.

Claim 18 is amended to depend from claim 15 rather than claim 14, thus correcting the typographical error discussed above regarding claim 16. Claim 18 also contains the implicit amendment caused by the amendment to claim 15. This is not new matter since it adds no features that didn't exist earlier.

Claim 19 is amended to depend from claim 15 rather than claim 14, thus correcting the typographical error discussed above regarding claim 16. Claim 19 also contains the implicit amendment caused by the amendment to claim 15. This is not new matter since it adds no features that didn't exist earlier.

Claim 20 is amended to depend from claim 8 rather than claim 14, thus correcting the typographical error discussed above regarding claim 16. Claim 20 also contains the implicit amendment caused by the amendment to claim 8. Claim 20 is amended to incorporate the transmitter capable of sending a wireless signal formerly seen in claim 13 and the transceiver capable of sending and receiving a signal through telecommunication lines formerly seen in claim 14. This is not new matter since it adds no features that didn't exist earlier.

#### ARGUMENTS IN TRAVERSAL OF CLAIM REJECTIONS

With respect to the claims 1-18 and 20 under 35 U.S.C. section 102, for prior art to anticipate under 35 U.S.C. section 102 every element of the claimed invention must be identically disclosed, either expressly or under principles of inherency, in a single reference (Corning Glass Works v. Sumitomo Electric, 9 U.S.P.Q. 2d 1962, 1965 (Fed. Cir. 1989)). Where all the elements or their equivalents cannot be found in one unit of prior art, there is no anticipation (Firestone v. Aluminum Co. of America,

285 F.2d 928, 127 U.S.P.Q. 407 (1960)).

Turning to claim 1, Pelekis (Patent No. US 6,380,844) now does not anticipate because the means passively to sense light is not identically disclosed. (See the abstract, claims 2, 3, 4, 19), Sacca (Patent No. US 6,380,967) now does not anticipate because the means passively to sense light has not been identically disclosed (See Column 4, lines 45-48; Column 5, lines 11-12, and lines 66-67; Column 6, lines 1-4 and lines 17-20; Column 7, lines 24-27), and Henrie now does not anticipate because the means passively to sense light is not identically disclosed.

Turning to claim 2, Pelekis now does not anticipate because the means passively to sense light is not identically disclosed.

Turning to claim 3, Pelekis now does not anticipate because the means passively to sense light is not identically disclosed.

Turning to claim 4, Pelekis now does not anticipate because the means passively to sense light is not identically disclosed.

Turning to claim 5, Sacca now does not anticipate because the means passively to sense light is not identically disclosed.

Turning to claim 6, Henrie now does not anticipate because the means passively to sense light is not identically disclosed.

Turning to claim 7, Pelekis now does not anticipate because the means passively to sense light is not identically disclosed.

Turning to claim 8, Pelekis now does not anticipate because the switch which is capable of selecting between a first state in which said signaling means will be actuated at a specified time and a second state in which said signaling means will not be actuated at a specified time is not identically disclosed therein. Sacca now does not anticipate because the switch which is capable of selecting between a first state in which said signaling means will be actuated at a specified time and a second state in which said signaling means will not be actuated at a specified time is not identically disclosed therein. Henrie now does not anticipate because, in the first place, Henrie is drawn to a peripheral device and not to the host computer. The claims of Henrie show that the host system is not part of the Henrie invention which is "a peripheral device" for use in the host system. Therefore the Henrie device does not have a timer on board. The Examiner's comment that the host system will supply the timing means is admitting that a timing means from something that is not the Henrie invention must supply the timing means and that the invention of Henrie does not have it. Secondly, Henrie does not identically disclose a switch which is capable of selecting between a first state in which said signaling means will be actuated at a specified time and a second state in which said signaling means will not be actuated at a specified time.

Turning to claim 9, Pelekis now does not anticipate because it does not identically disclose the switch which actuates or does not actuate the signaling means at a specified time.

Turning to claim 10, Pelekis now does not anticipate because it does not identically disclose the switch which actuates or does not actuate the signaling means at a specified time.

Turning to claim 11, Pelekis now does not anticipate because it does not identically disclose the switch which actuates or

does not actuate the signaling means at a specified time.

Turning to claim 12, Pelekis now does not anticipate because it does not identically disclose the switch which actuates or does not actuate the signaling means at a specified time.

Turning to claim 13, Henrie now does not anticipate because it has no timing means on board and it does not identically disclose the switch which actuates or does not actuate the signaling means at a specified time.

Turning to claim 14, Sacca now does not anticipate because it does not identically disclose the switch which actuates or does not actuate the signaling means at a specified time.

Turning to claim 15, Bellomo (Patent No. US 6,504,908) does not anticipate because it does not identically disclose the wireless signal being receivable by a specified electronic device. The cordless phone embodiment cited by the Examiner and mentioned at Column 3 Lines 20-25 is in fact the device which sends the signal, not the specified device which receives the signal. If the Examiner means the reminders of the device are the signals, then they are not wireless since "The reminder phone could be realized as a wireless phone or as a cellular phone (column 3, lines 22-23). In other words the controller and memory as well as the signaling means are all there and do not send a signal to a remote device. If this embodiment does send a wireless signal it cannot be to a specified electronic device since the cordless phone is itself the specified electronic device according to the Examiner's reasoning. A device which sends a signal to itself, even if wireless, cannot be a remote signaling device, since it is not remote from itself.

Turning to claim 16, Bellomo does not anticipate because the Bellomo device which sends a wireless signal is the same device Examiner cites as being the specified electronic device that receives the signal. Such a device cannot be a "remote signaling device" and the truth is that Bellomo has not disclosed the "specified electronic device." The Examiner, with all due respect, is mistaken in rejecting claim 16 under 35 U.S.C. section 112 as indefinite. Applicant's specification at page 5, lines 13-19 states "the wireless reminder could be received by another device carried by a specified individual such as a pager, a personal digital assistant, a laptop computer, cellular telephone, etc. The transceiver could be capable of sending messages over ordinary land lines such as cable or the telephone system." It is well known to virtually all adults in the United States at the time this invention was filed that pagers and cellular telephones have code numbers which are dialed to access the specified device. At page 3, line 9 a jack for the input of information to the device is disclosed. It is well known to virtually every adult in the United States at the time this invention was filed that such jacks are typically fitted with a keyboard through which alphanumeric information can be sent to the controller and/or memory. Thus there is an obviously disclosed way to input the dialed number.

Turning to claim 17, Bellomo does not anticipate because the Bellomo device which sends a wireless signal is the same device Examiner cites as being the specified electronic device that

receives the signal. Such a device cannot be a "remote signaling device" and the truth is that Bellomo has not disclosed the "specified electronic device."

Turning to claim 18, Bellomo does not anticipate because the Bellomo device which sends a wireless signal is the same device Examiner cites as being the specified electronic device that receives the signal. Such a device cannot be a "remote signaling device" and the truth is that Bellomo has not disclosed the "specified electronic device."

Turning to claim 20, Bellomo does not anticipate because the claim has been amended in its entirety.

With respect to the rejection of claim 19 under 35 U.S.C. section 103, when the alleged prior art does not specifically address the types of problems addressed by the technology of the invention, the prior art alleged is not applicable in combinations to render the invention obvious (Caster v. U.S., 9 U.S.P.Q. 2d 1753 (Cls. Ct. 1988)). Again, the wireless means of Bellomo is the sending device. It is the Bellomo invention. It cannot also be the receiving device for the same message and still be a remote signaling device. Bellomo does not disclose a specified electronic device to receive the signals. Bellomo does not specifically address the types of problems addressed by the technology of the Zehavi invention. Where the prior art does not appreciate the existence of the problem solved by the invention, the Applicant's recognition of the problem is, in itself, strong evidence of the non-obviousness of the invention (In Re Nomiya, et al., 184 U.S.P.Q. 607, 612-613 (C.C.P.A. 1975)). Flittie (Patent No. US 4,186,389) does not appreciate the existence of the problem solved by the Zehavi invention. Flittie predates the advent of the personal desktop computer, let alone the advent of personal digital assistants. This could not have been foreseen by Flittie and that is why Flittie does not address the problem of remotely signaling an electronic device. The failure of Flittie to appreciate the existence of the problem is strong evidence of the non-obviousness of the Zehavi invention. Since Flittie does not address the kinds of problems addressed by the Zehavi technology, Flittie cannot be applied in a combination with Bellomo to render the Zehavi invention obvious (because of Caster v. U.S. above). When the alleged prior art is neither in the same field of endeavor nor pertinent to the problem to be solved there can be no obviousness rejection under 35 U.S.C. section 103 (In Re Clay, 23 U.S.P.Q. 2d 1058 (Fed. Cir. 1992)). Flittie is neither in the same field of endeavor (because it is not a remote signaling device), nor is it pertinent to the problem to be solved (because it does not show how to signal a specified electronic device remotely). Flittie cannot be combined with Bellomo to render the Zehavi invention obvious.

Applicant respectfully requests that the Examiner enter the amendments proposed herein, and reconsider and withdraw the claim objections and rejections as indicated.  
Respectfully submitted,



Charles R. Sutton Reg. No. 42,176  
(818) 780-6616

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

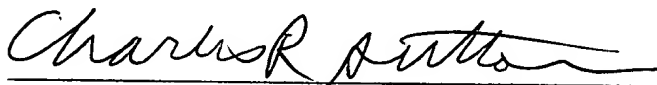
Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

on December 1, 2003.

Charles R. Sutton Reg. No. 42,176



(a) Title of the Invention.

Light Sensitive Signaling Device

(b) Cross-References to Related Applications.

There are no related applications.

(c) Statement as to Rights to Inventions made under Federally-Sponsored Research and Development.

This invention was not made under Federally Sponsored Research and Development.

(d) Background of the Invention.

1. Field of the Invention

This invention falls within the field of photosensitive devices which control other devices, possibly with the additional input of a timer, voice chip, recorder, and signaling device.

2. Description of Related Art Including Information Disclosed Under 37 CFR Sections 1.97 and 1.98.

Typical devices in the field include devices which dim an automobile's headlights in response to an oncoming car's headlights. Other devices exist which will turn on the lights in the garage when a car drives up to the house at night with its headlights on. Often the devices come equipped with a timer or a motion detector. Devices with a timer are often used to turn on something such as lawn sprinklers a certain length of time after dawn or dusk. Devices with motion detectors are typically used to turn on the room lights when a person enters the room.

(e) Summary of the Invention.

This invention is a device which can sense changes in the amount of light in a room, and possibly sense the passage of





time, for the purpose of signaling when specified conditions arise. A typical use would be that the device plays a recorded voice reminder when the lights are turned on in the morning or when the lights are turned off in the evening. The device could also, but not necessarily, send a wireless message to a personal digital assistant, for example, when specified conditions arise where the device is able to sense them, such as four hours after the lights were turned on in the morning a reminder message could be sent to mail payment of a bill.

(f) Brief Description of the Drawings.

Figure 1 shows the invention in an embodiment featuring a volume control knob and an input jack.

Figure 2 shows the invention in an embodiment having speaker volume controlled by a cover.

Figure 3 shows the embodiment of Figure 2 as it would appear with the cover slid over the speaker.

Figure 4 shows the invention in an embodiment having an alarm.

Figure 5 is a side view of the alarm type embodiment of the invention.

Figure 6 is a flow chart showing how the various subunits of the invention interact.

(g) Description of the Preferred Embodiment.

The preferred embodiment of this invention involves a light sensitive messaging machine which would hold recorded messages for future replay, replay those messages at a pre-programmed time and/or immediately after a specific event, send wireless messages to a remote personal digital assistant, display time and date,

plug into an AC wall jack and have a way to control the amplitude of the signal. The recorded messages could either be provided by the factory or the device could have a microphone allowing the user to prepare his or her own messages.

Referring now to Figure 1, the invention is shown with a power plug (1) which is attached to the chassis (2) of the invention. On the face of the chassis is a photosensitive cell (3), a volume control knob (4), a display (5), a speaker (6), and a jack (7) for the input of information to the device. Figure 2 and Figure 3 show how the invention could have a less expensive means to control the volume in the form of a mechanical cover (9) which can slide over the speaker (6). The cover may be held on by retaining stops (10) which form a framework within which the cover slides. The cover is slid away from the speaker as in Figure 2 to control the volume. The cover is slid over the speaker as in Figure 3 to the device's volume.

The invention has many features in common with an alarm clock, except that it is equipped to provide its messages at non-specific times determined by when the lights are turned lower or higher in a room. Figure 4 shows how the device could be equipped with a switch (11) by which the alarm can be activated. The device also can be equipped with a shutoff (12) by which the alarm or message can be deactivated. The device can provide a warning if the alarm has not been set at night, but if it senses the alarm has been set, it would not provide the warning. In this case it will either do nothing in response to that stimulus or it may simply give another message, such as to tell the user

"goodnight." The difference from an ordinary alarm clock is that the invention can sense light in the morning, wait ten minutes and then provide a voice reminder to go to the post office today, for example. Figure 5 shows a side view of the invention including its power plug.

Figure 6 shows a flow chart of how the various subunits of the invention work together to produce the desired effect. A power source (13) provides electricity to a controller (14). The controller, in turn provides power to the various devices described below and in Figure 6 as needed. There is an alarm switch (15) which can control the controller or be controlled by it depending on the programming. The controller operates a transceiver (16) and a speaker (6). Both the speaker and the transceiver are receiving electricity from the power source through the controller as well as instructions from the controller. The device has a photosensitive cell (3) which provides information to the controller and may receive electricity from the controller. A timer (17) receives electricity and instructions from the controller and provides information to the controller. A recorder (18) receives electricity and instructions from the controller and shares information with a memory (19) via the controller. The memory sends information to the controller and receives electricity and information from the controller. The controller uses the programming information from the memory to control the speaker, timer or the transceiver. The controller can send messages stored in the memory through the speaker or transceiver. The

programming would tell the controller which conditions of light intensity or passage of time or switching condition of the alarm switch would prompt which stored message to send and how and when to send it. The invention can be adapted so that signaling is caused by passage of time and not necessarily dependent on light intensity. Because of the timer, the wireless signal could be sent a specified length of time before and/or after an event and/or simply sent at the time of the event. The invention could measure time from the last time the alarm was set or the last time it was deactivated and send a signal after a specified length of time. For example, the invention could send a wireless reminder twenty two hours after the last time the alarm feature had been set on the device. The wireless reminder could be received by another device carried by a specified individual such as a pager, a personal digital assistant, a laptop computer, cellular telephone, etc. The transceiver could be capable of sending messages over ordinary land lines such as cable or the telephone system.

(h) Claims.

I claim:

1. A signaling apparatus comprising a [photosensitive] means passively to sense light, a controller, and a signaling means; said controller being responsive to variations in light intensity as communicated to it by said [photosensitive] means passively to sense light; said controller having a memory capable of storing data; said controller using data from said memory to actuate said signaling means in response to specified conditions of light intensity. (Amended)
2. The signaling apparatus of claim 1 [having] in which the signaling means has an amplitude and the signaling apparatus has a means to control the amplitude of the signaling means. (Amended)
3. The signaling apparatus of claim 1 having a means for quantifying luminosity, said controller using data from said memory to actuate said signaling means only in response to sensation of specified quantities of lumens.
4. The signaling apparatus of claim 1 having a means for placing data into said memory.
5. The signaling apparatus of claim 1 further comprising a transceiver capable of sending and receiving a signal through telecommunication lines.
6. The signaling apparatus of claim 1 wherein said signaling means is a transceiver capable of sending and receiving a wireless signal.
7. The signaling apparatus of claim 1 further comprising a

timing means; said controller being responsive to variations in time as communicated to it by said timing means; said controller using data from said memory to actuate said signaling means in response to specified conditions of time.

8. A signaling apparatus comprising a photosensitive means, a switch, a timing means, a controller, and a signaling means; said controller being responsive to variations in light intensity as communicated to it by said photosensitive means; said controller being responsive to variations in time as communicated to it by said timing means; said controller having a memory capable of storing data; said controller using data from said memory to actuate said signaling means in response to specified conditions of light intensity; said switch selecting between a first state in which said signaling means will be actuated at a specified time and a second state in which said signaling means will not be actuated at a specified time. (Amended)

9. The signaling apparatus of claim 8 [having] in which the signaling means has an amplitude and the signaling apparatus has a means to control the amplitude of said signaling means.

(Amended)

10. The signaling apparatus of claim 8 having a means for quantifying luminosity, said controller using data from said memory to actuate said signaling means only in response to sensation of specified quantities of lumens.

11. The signaling apparatus of claim 8 having a means for placing data into said memory.

12. The signaling apparatus of claim 8 further comprising said

controller using data from said memory to actuate said signaling means in response to a specified [conditions of tim] state of said switch. (Amended)

13. The signaling apparatus of claim [8] 12 wherein said controller actuates said signaling means when a specified member selected from the group comprising said first state and said second state coincides with specified conditions of light intensity [wherein said signaling means is a transmitter capable of sending a wireless signal]. (Amended)

14. The signaling apparatus of claim 8 further comprising a transceiver capable of sending and receiving a signal [through telecommunication lines]. (Amended)

15. A remote signaling apparatus comprising a timing means, a controller, and a wireless transmission means; said controller being responsive to variations in time as communicated to it by said timing means; said controller having a memory capable of storing data; said controller using data from said memory to actuate said wireless transmission means in response to specified conditions of time; said wireless transmission means sending a signal defined by data from said memory; said signal being receivable by a specified electronic device [carried by the person being signaled]. (Amended)

16. The remote signaling apparatus of claim [14] 15 having a means to specify said specified electronic device. (Amended)

17. The remote signaling apparatus of claim [14] 15 having a means for displaying the data from said memory. (Amended)

18. The remote signaling apparatus of claim [14] 15 having a

means for placing data into said memory. (Amended)

19. The remote signaling apparatus of claim ~~[14]~~ 15 further comprising a photosensitive means; said controller being responsive to variations in light intensity as communicated to it by said photosensitive means; said controller using data from said memory to actuate said signaling means in response to specified conditions of light intensity. (Amended)

20. The signaling apparatus of claim 8 further comprising a transmitter capable of sending a wireless signal and a transceiver capable of sending and receiving a signal through telecommunication lines [remote signaling apparatus of claim 14 having a speaker and said controller can send auditory signals from said speaker; said auditory signals being defined by data from said memory]. (Amended)



(1) Abstract of th Disclosur .

A device which can detect changes in the light intensity of its location and provide messages in response to the changes. The messages could be in the form of auditory cues such as the replay of a recorded voice message containing a reminder, salutation or reaffirmation. The messages could be in the form of wireless messages sent to the personal digital assistant of the user. In one embodiment the device would be equipped with a timer so that it can give its messages in response to the day, or hour, or the amount of time elapsed since a change in the room's lighting condition.

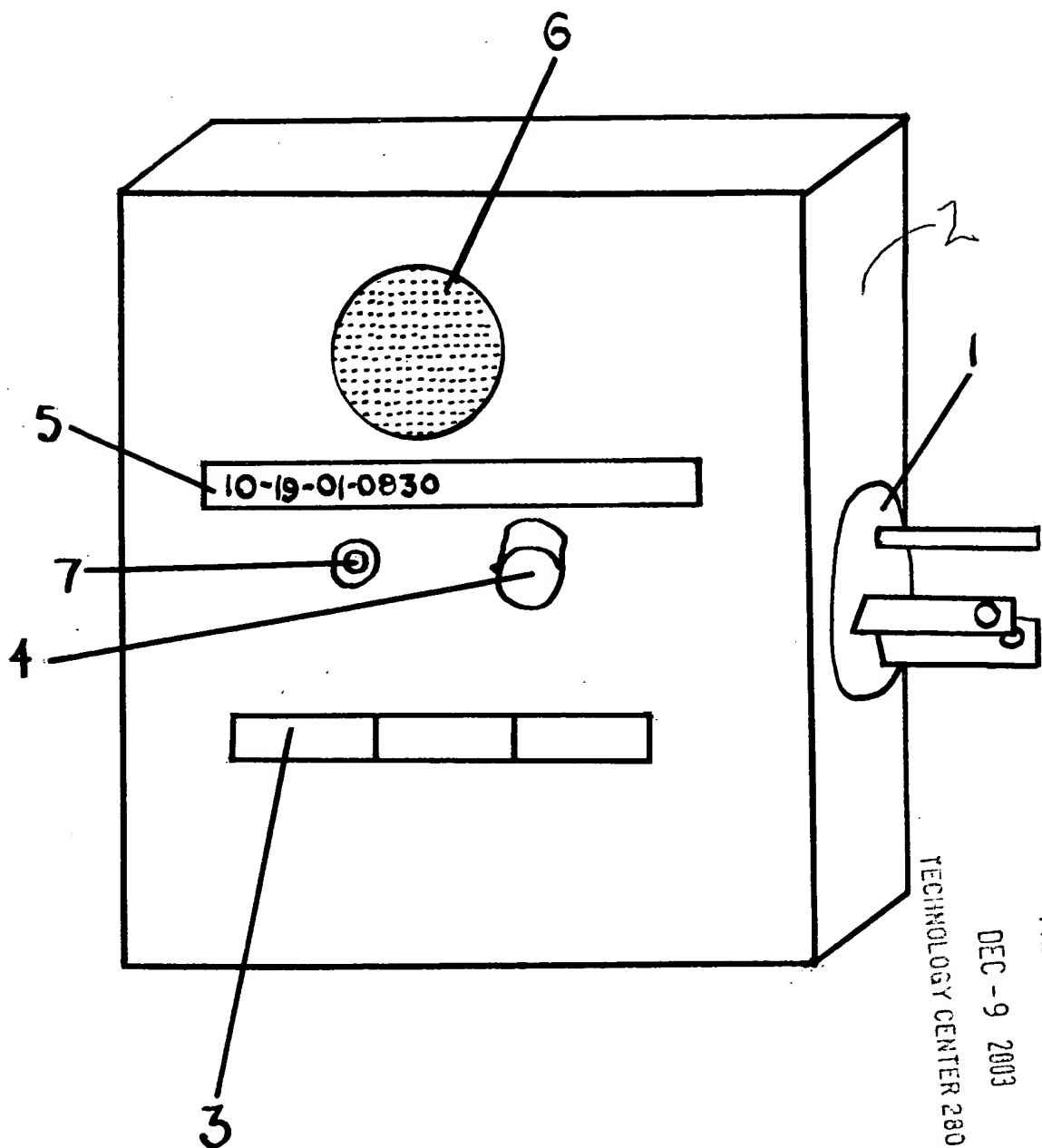
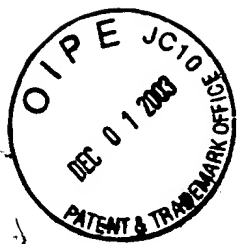


FIG. 1

RECEIVED  
DEC - 9 2003  
TECHNOLOGY CENTER 2800